

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1948

To amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States intelligence community and to enhance the investigative authority of the Federal Bureau of Investigation in counterintelligence matters, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, FEBRUARY 22), 1994

Mr. DECONCINI (for himself, Mr. WARNER, Mr. GRAHAM, Mr. MURKOWSKI, Mr. D'AMATO, Mr. KERREY, Mr. GORTON, Mr. BRYAN, Mr. CHAFEE, Mr. JOHNSTON, Mr. BOREN, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

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## A BILL

To amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States intelligence community and to enhance the investigative authority of the Federal Bureau of Investigation in counterintelligence matters, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Counterintelligence  
5   and Security Enhancements Act of 1994”.

1 **SEC. 2. COUNTERINTELLIGENCE FOR EMPLOYEES OF**  
2 **AGENCIES IN THE INTELLIGENCE COMMU-**  
3 **NITY.**

4 (a) IN GENERAL.—The National Security Act of  
5 1947 (50 U.S.C. 401 et seq.) is amended by adding at  
6 the end the following new title:

7 “TITLE VIII—COUNTERINTELLIGENCE FOR EM-  
8 PLOYEES OF AGENCIES IN THE INTEL-  
9 LIGENCE COMMUNITY

10 “DEFINITIONS

11 “SEC. 801. As used in this title:

12 “(1) The term ‘head of an agency within the in-  
13 telligence community’ includes the following:

14 “(A) The Director of Central Intelligence  
15 in the case of the Central Intelligence Agency  
16 and the Office of the Director of Central Intel-  
17 ligence.

18 “(B) The Director of the National Security  
19 Agency in the case of such agency.

20 “(C) The Director of the Defense Intel-  
21 ligence Agency in the case of such agency.

22 “(D) The head of the central imagery au-  
23 thority of the Department of Defense in the  
24 case of such authority.

25 “(E) The Director of the National Recon-  
26 naissance Office in the case of such office.

1           “(F) The Secretaries of the military de-  
2           partments in the case of offices within such de-  
3           partments for the collection of specialized na-  
4           tional intelligence through reconnaissance pro-  
5           gram and in the case of intelligence elements of  
6           the Army, Navy, Air Force, and Marine Corps.

7           “(G) The Director of the Federal Bureau  
8           of Investigation in the case of the intelligence  
9           elements of such bureau.

10           “(H) The Secretary of State, the Secretary  
11           of Treasury, and the Secretary of Energy in the  
12           case of the intelligence elements within the de-  
13           partments of each such Secretary, respectively.

14           “(2) The term ‘critical intelligence position’  
15           means any position within the intelligence commu-  
16           nity, the holder of which requires access to critical  
17           intelligence information.

18           “(3) The term ‘critical intelligence information’  
19           means—

20           “(A) classified information which reveals  
21           the identities of covert agents of the intelligence  
22           community and the disclosure of which to unau-  
23           thorized persons would reasonably jeopardize  
24           the lives or safety of such agents;

1           “(B) classified information concerning a  
2           technical collection system of the intelligence  
3           community, the disclosure of which to unau-  
4           thorized persons would substantially negate or  
5           impair the effectiveness of the system; or

6           “(C) classified information relating to a  
7           cryptographic system for the protection of clas-  
8           sified information of the United States, the dis-  
9           closure of which to unauthorized persons would  
10          substantially negate or impair the effectiveness  
11          of the system.

12          “(4) The term ‘covert agent’ has the meaning  
13          given such term in section 606(4).

14          “(5) The term ‘technical collection system’  
15          means a system for the collection, transmission, or  
16          exploitation of electronic signals, emanations, or im-  
17          ages by means that are not commercially available.

18          “(6) The term ‘information relating to a cryp-  
19          tographic system’ means information relating to (i)  
20          the nature, preparation, content, or use of any code,  
21          cipher, or other method of protecting communica-  
22          tions of classified information of the United States  
23          from interception by unauthorized persons, or (ii)  
24          the design, construction, use, maintenance, or repair  
25          of any equipment used to protect such communica-

10           “(8) The term ‘employee’ means any person  
11           who—

15                   “(B) is a contractor or unpaid consultant  
16                   of such an agency; or

17                   “(C) otherwise acts for or on behalf of  
18                   such an agency.

19 “REQUIREMENTS FOR EMPLOYEES OF AGENCIES IN THE  
20 INTELLIGENCE COMMUNITY

21       “SEC. 802. A person may not become an employee  
22 of an agency within the intelligence community unless, be-  
23 fore becoming such an employee, the person—

24 “(1) authorizes, in writing, the Secretary of the  
25 Treasury to disclose the tax returns of the person,  
26 or information from such tax returns, to a rep-

1       representative of an authorized investigative agency  
2       specified in the document evidencing such authority  
3       during the period in which the person is employed  
4       by the agency;

5               “(2) agrees, in writing, to permit a representa-  
6       tive of such an authorized investigative agency to in-  
7       spect or obtain for purposes authorized under this  
8       title copies of all records relating to bank accounts,  
9       investment accounts, credit accounts, and assets  
10      having a value of more than \$10,000 in which the  
11      person, or any member of the immediate family of  
12      the person, has a beneficial interest during such  
13      period; and

14              “(3) agrees, in writing, to permit a representa-  
15      tive of such an authorized investigative agency to in-  
16      spect or obtain copies of all records maintained by  
17      a governmental entity or a private entity relating to  
18      the travel of the person to a foreign country.

19      “DESIGNATION OF CRITICAL INTELLIGENCE POSITIONS

20              “SEC. 803. Consistent with this title and in accord-  
21      ance with section 808, the head of each agency within the  
22      intelligence community shall by regulation designate each  
23      position within the agency which qualifies as a critical in-  
24      telligence position.

1       “REQUIREMENTS FOR EMPLOYEES IN CRITICAL  
2                                   INTELLIGENCE POSITIONS

3       “SEC. 804. (a) An employee of an agency within the  
4 intelligence community may not hold a critical intelligence  
5 position unless, before holding such position, such em-  
6 ployee—

7               “(1) provides the authority and agreements re-  
8       ferred to in paragraphs (1), (2), and (3) of section  
9       802; and

10              “(2) in accordance with the regulations pre-  
11       scribed under section 808—

12                      “(A) provides the agency employing the  
13       employee with an appropriate statement disclos-  
14       ing the nature and location of all bank ac-  
15       counts, investment accounts, credit accounts,  
16       and assets valued at more than \$10,000 in  
17       which the employee, or any immediate member  
18       of the family of the employee, has a beneficial  
19       interest;

20                      “(B) agrees, in writing, to advise promptly  
21       the agency of any changes which occur with re-  
22       spect to the nature or location of the accounts  
23       or assets disclosed pursuant to subparagraph  
24       (A); and

6       “(b) An employee providing an authorization and  
7 agreements under subsection (a) shall agree that the au-  
8 thorization and agreement continue in effect—

9           “(1) during the period in which the employee  
10       holds the critical intelligence position for which the  
11       employee provides the authorization and agreements;  
12       and

13           “(2) if the employee ceases holding such posi-  
14           tion, until the earlier of—

15                   “(A) the date 10 years after the date on  
16                   which the employee ceases holding such posi-  
17                   tion; or

18 “(B) the date on which the employee  
19 ceases employment with the Federal Govern-  
20 ment.

21 “RESPONSIBILITIES OF AUTHORIZED INVESTIGATIVE  
22 AGENCIES

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1           “(1) periodically review and verify the informa-  
2           tion provided and disclosed under section 804 by  
3           persons holding critical intelligence positions; and

4           “(2) if such review indicates the failure of any  
5           such person to comply fully and completely with the  
6           requirements of such section, conduct an appropriate  
7           inquiry with respect to such failure.

8           “(b)(1) If circumstances indicate the loss or com-  
9           promise of critical intelligence information, the head of the  
10          agency concerned shall immediately advise the Federal  
11          Bureau of Investigation of such loss or compromise.

12          “(2) Upon notification under paragraph (1), the Fed-  
13          eral Bureau of Investigation, or any other appropriate au-  
14          thorized investigative agency with the concurrence with  
15          the Federal Bureau of Investigation, may conduct appro-  
16          priate inquiries with respect to such loss or compromise.

17          “(c) Any inquiry under this section may include re-  
18          quests for information from a governmental entity or from  
19          private entities. Such requests shall be made in accordance  
20          with section 806.

21          “REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

22          “SEC. 806. (a)(1) Any authorized investigative agen-  
23          cy may request from any governmental entity, or from any  
24          private entity, such records or other information as are  
25          necessary in order to conduct any authorized counterintel-

1   ligence inquiry or security inquiry, including inquiries  
2   under section 805.

3       “(2) Each such request—

4           “(A) shall be accompanied by a written certifi-  
5       cation signed by the head of the intelligence agency  
6       concerned, or the designee of the head of the agency,  
7       and shall certify that—

8           “(i) the person concerned is an employee of  
9       the intelligence agency;

10          “(ii) the request is being made pursuant to  
11       an authorized inquiry or investigation; and

12          “(iii) the records or information to be re-  
13       viewed are records or information which the  
14       employee has previously agreed to make avail-  
15       able to the authorized investigative agency for  
16       review;

17          “(B) shall contain a copy of the agreement re-  
18       ferred to in subparagraph (A)(iii);

19          “(C) shall identify the records or information to  
20       be reviewed; and

21          “(D) shall inform the recipient of the request of  
22       the prohibition described in subsection (b).

23       “(b) No governmental or private entity, or officer,  
24   employee, or agent of such entity, may disclose to any per-  
25   son, other than those officers, employees, or agents of such

1 entity necessary to satisfy a request made under this sec-  
2 tion, that such entity has received or satisfied a request  
3 made by an authorized investigative agency under this  
4 section.

5 “(c)(1) Notwithstanding any other provision of law,  
6 an entity receiving a request for records or information  
7 under subsection (a) shall, if the request satisfies the re-  
8 quirements of this section, make available such records or  
9 information for inspection or copying, as may be appro-  
10 priate, by the agency requesting such records or informa-  
11 tion.

12 “(2) Any entity (including any officer, employee or  
13 agent thereof) that discloses records or information for in-  
14 spection or copying pursuant to this section in good faith  
15 reliance upon the certifications made by an agency of the  
16 intelligence community pursuant to this section shall not  
17 be liable for any such disclosure to any person under this  
18 title, the constitution of any State, or any law or regula-  
19 tion of any State or any political subdivision of any State.

20 “(d) Subject to the availability of appropriations  
21 therefor, any agency requesting records or information  
22 under this section may reimburse a private entity for any  
23 cost reasonably incurred by such entity in responding to  
24 such request, including the cost of identifying, reproduc-  
25 ing, or transporting records or other data.

1       “(e)(1) Except as provided in paragraph (2), an  
2 agency receiving records or information pursuant to a re-  
3 quest under this section may not disseminate the records  
4 or information obtained pursuant to such request outside  
5 such agency.

6       “(2) An agency may disseminate records or informa-  
7 tion referred to in paragraph (1) only to the agency em-  
8 ploying the employee who is the subject of the records or  
9 information or to the Department of Justice for law en-  
10 forcement or counterintelligence purposes.

11       “(f) Any authorized investigative agency that dis-  
12 closes records or information received pursuant to a re-  
13 quest under this section in violation of subsection (e)(1)  
14 shall be liable to the employee to whom the records relate  
15 in an amount equal to the sum of—

16               “(1) \$100, without regard to the volume of  
17 records involved;

18               “(2) any actual damages sustained by the em-  
19 ployee as a result of the disclosure;

20               “(3) if the violation is found to have been will-  
21 ful or intentional, such punitive damages as the  
22 court may allow; and

23               “(4) in the case of any successful action to en-  
24 force liability, the costs of the action, together with  
25 reasonable attorney fees, as determined by the court.

“(b) The head of each agency within the intelligence community shall ensure that the Director of the Federal Bureau of Investigation is provided appropriate access to the employees and the records of the agency as may be necessary to carry out authorized counterintelligence or law enforcement investigations.

18       “SEC. 808. Not later than 6 months after the date  
19 of the enactment of this Act, the Director of Central Intel-  
20 ligence shall issue regulations applicable to all agencies of  
21 the intelligence community to implement the provisions of  
22 this Act. Such regulations shall take effect not later than  
23 6 months after the date of their issuance by the Director.

25       “SEC. 809. The Director of Central Intelligence shall  
26 submit to the Select Committee on Intelligence of the Sen-

1 ate and the Permanent Select Committee on Intelligence  
2 of the House of Representatives a report on the activities  
3 carried out under this title and the effectiveness of this  
4 title in facilitating counterintelligence activities. The Di-  
5 rector shall submit the report on an annual basis.”.

6 (b) TREATMENT OF INCUMBENTS OF COVERED POSI-  
7 TIONS.—(1) Each employee of an agency within the intel-  
8 ligence community shall carry out the requirements of sec-  
9 tion 802 of the National Security Act of 1947, as added  
10 by subsection (a), not later than 60 days after the issuance  
11 of the regulations required under section 808 of such Act,  
12 as so added.

13 (2) The head of each agency within the intelligence  
14 community shall, upon designating a position within the  
15 agency as a critical intelligence position under section 803  
16 of such Act, as so added, promptly inform the incumbent,  
17 if any, of such position, and any persons being considered  
18 for such position, of such designation.

19 (3) The head of each such agency shall require that  
20 each person who holds a position in the agency so des-  
21 ignated shall carry out the requirements of section 804  
22 of such Act, as so added, not later than 60 days after  
23 the date of such designation.

24 (4) Notwithstanding any other provision of law, the  
25 head of each such agency shall—

1 (A) terminate the employment of any employee  
2 of the agency, or any incumbent in a critical intel-  
3 ligence position in the agency, who fails to comply  
4 with the requirements set forth in paragraph (1) or  
5 (3), as the case may be; and

6 (B) to the extent feasible—

7 (i) reassign such incumbent to a position  
8 of equal grade and status within the agency  
9 that is not a critical intelligence position; or

10 (ii) facilitate the reemployment of such em-  
11 ployee in an agency that is not an agency with-  
12 in the intelligence community.

13 (c) TREATMENT OF CONGRESSIONAL STAFF HAVING  
14 ACCESS TO CRITICAL INTELLIGENCE INFORMATION.—(1)  
15 Notwithstanding any other provision of law and subject  
16 to paragraph (2), sections 802 and 804 of the National  
17 Security Act of 1947, as added by subsection (a), shall  
18 apply to employees of Congress whose positions of employ-  
19 ment require access to critical intelligence information.

20 (2) The leaders of each House of Congress shall joint-  
21 ly determine with respect to such House—

22 (A) the employees of such House whose posi-  
23 tions of employment require access to critical intel-  
24 ligence information; and

1 (B) appropriate means of applying such sec-  
2 tions to such employees.

3 (3) In this subsection:

4 (A) The term “critical intelligence information”  
5 has the meaning given such term in section 801(3)  
6 of such Act, as so added.

7 (B) The term “leaders of each House of Con-  
8 gress” means the following:

9 (i) In the case of the Senate, the Majority  
10 Leader of the Senate and the Minority Leader  
11 of the Senate.

12 (ii) In the case of the House of Represent-  
13 ative, the Speaker of the House of Representa-  
14 tives and the Minority Leader of the House of  
15 Representatives.

16 **SEC. 3. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR**  
17 **COUNTERINTELLIGENCE PURPOSES.**

18 Section 608 of the Fair Credit Reporting Act (15  
19 U.S.C. 1681f) is amended—

20 (1) by striking “Notwithstanding” and insert-  
21 ing “(a) DISCLOSURE OF CERTAIN IDENTIFYING IN-  
22 FORMATION.—Notwithstanding”; and

23 (2) by adding at the end the following new sub-  
24 section:



1       “(b) DISCLOSURES TO THE FBI FOR COUNTER-  
2 INTELLIGENCE PURPOSES.—

3           “(1) CONSUMER REPORTS.—Notwithstanding  
4 the provisions of section 604, a consumer reporting  
5 agency shall furnish a consumer report to the Fed-  
6 eral Bureau of Investigation when presented with a  
7 written request for a consumer report, signed by the  
8 Director of the Federal Bureau of Investigation, or  
9 the Director’s designee, who certifies compliance  
10 with this subsection. The Director or the Director’s  
11 designee may make such a certification only if the  
12 Director or the Director’s designee has determined  
13 in writing that—

14           “(A) such records are necessary for the  
15 conduct of an authorized foreign counterintel-  
16 ligence investigation; and

17           “(B) there are specific and articulable  
18 facts giving reason to believe that the consumer  
19 whose consumer report is sought is a foreign  
20 power or an agent of a foreign power, as de-  
21 fined in section 101 of the Foreign Intelligence  
22 Surveillance Act of 1978 (50 U.S.C. 1801).

23           “(2) IDENTIFYING INFORMATION.—Notwith-  
24 standing the provisions of section 604, a consumer  
25 reporting agency shall furnish identifying informa-

1       tion respecting a consumer, limited to name, ad-  
2       dress, former addresses, places of employment, or  
3       former places of employment, to the Federal Bureau  
4       of Investigation when presented with a written re-  
5       quest, signed by the Director or the Director's des-  
6       ignee, which certifies compliance with this sub-  
7       section. The Director or the Director's designee may  
8       make such a certification only if the Director or the  
9       Director's designee has determined in writing that—

10               “(A) such information is necessary to the  
11               conduct of an authorized counterintelligence in-  
12               vestigation; and

13               “(B) there is information giving reason to  
14               believe that the consumer has been, or is about  
15               to be, in contact with a foreign power or an  
16               agent of a foreign power, as so defined.

17               “(3) CONFIDENTIALITY.—No consumer report-  
18       ing agency or officer, employee, or agent of such  
19       consumer reporting agency may disclose to any per-  
20       son, other than those officers, employees, or agents  
21       of such agency necessary to fulfill the requirement  
22       to disclose information to the Federal Bureau of In-  
23       vestigation under this subsection, that the Federal  
24       Bureau of Investigation has sought or obtained a  
25       consumer report or identifying information respect-

1       ing any consumer under paragraph (1) or (2), nor  
2       shall such agency, officer, employee, or agent include  
3       in any consumer report any information that would  
4       indicate that the Federal Bureau of Investigation  
5       has sought or obtained such a consumer report or  
6       identifying information.

7               “(4) PAYMENT OF FEES.—The Federal Bureau  
8       of Investigation shall, subject to the availability of  
9       appropriations, pay to the consumer reporting agen-  
10      cy assembling or providing credit reports or identify-  
11      ing information in accordance with procedures estab-  
12      lished under this title, a fee for reimbursement for  
13      such costs as are reasonably necessary and which  
14      have been directly incurred in searching, reproduc-  
15      ing, or transporting books, papers, records, or other  
16      data required or requested to be produced under this  
17      subsection.

18              “(5) LIMIT ON DISSEMINATION.—The Federal  
19      Bureau of Investigation may not disseminate infor-  
20      mation obtained pursuant to this subsection outside  
21      of the Federal Bureau of Investigation, except to the  
22      Department of Justice as may be necessary for the  
23      approval or conduct of a foreign counterintelligence  
24      investigation.

1           “(6) RULES OF CONSTRUCTION.—Nothing in  
2           this subsection shall be construed to prohibit infor-  
3           mation from being furnished by the Federal Bureau  
4           of Investigation pursuant to a subpoena or court  
5           order, or in connection with a judicial or administra-  
6           tive proceeding to enforce the provisions of this Act.  
7           Nothing in this subsection shall be construed to au-  
8           thorize or permit the withholding of information  
9           from Congress.

10          “(7) REPORTS TO CONGRESS.—On a semi-  
11          annual basis, the Attorney General of the United  
12          States shall fully inform the Permanent Select Com-  
13          mittee on Intelligence and the Committee on Bank-  
14          ing, Finance and Urban Affairs of the House of  
15          Representatives, and the Select Committee on Intel-  
16          ligence and the Committee on Banking, Housing,  
17          and Urban Affairs of the Senate concerning all re-  
18          quests made pursuant to paragraphs (1) and (2).

19          “(8) DAMAGES.—Any agency or department of  
20          the United States obtaining or disclosing credit re-  
21          ports, records, or information contained therein in  
22          violation of this subsection is liable to the consumer  
23          to whom such records relate in an amount equal to  
24          the sum of—

1           “(A) \$100, without regard to the volume  
2 of records involved;

3           “(B) any actual damages sustained by the  
4 consumer as a result of the disclosure;

5           “(C) if the violation is found to have been  
6 willful or intentional, such punitive damages as  
7 a court may allow; and

8           “(D) in the case of any successful action to  
9 enforce liability under this subsection, the costs  
10 of the action, together with reasonable attorney  
11 fees, as determined by the court.

12           “(9) DISCIPLINARY ACTIONS FOR VIOLA-  
13 TIONS.—If a court determines that any agency or  
14 department of the United States has violated any  
15 provision of this subsection and the court finds that  
16 the circumstances surrounding the violation raise  
17 questions of whether or not an officer or employee  
18 of the agency or department acted willfully or inten-  
19 tionally with respect to the violation, the agency or  
20 department shall promptly initiate a proceeding to  
21 determine whether or not disciplinary action is war-  
22 ranted against the officer or employee who was re-  
23 sponsible for the violation.

24           “(10) GOOD-FAITH EXCEPTION.—Any credit re-  
25 porting agency or agent or employee thereof making

1 disclosure of credit reports or identifying informa-  
2 tion pursuant to this subsection in good-faith reli-  
3 ance upon a certificate of the Federal Bureau of In-  
4 vestigation pursuant to provisions of this subsection  
5 shall not be liable to any person for such disclosure  
6 under this title, the constitution of any State, or any  
7 law or regulation of any State or any political sub-  
8 division of any State.

9 “(11) LIMITATION OF REMEDIES.—The rem-  
10 edies and sanction set forth in this subsection shall  
11 be the only judicial remedies and sanctions for viola-  
12 tion of this subsection.

13 “(12) INJUNCTIVE RELIEF.—In addition to any  
14 other remedy contained in this subsection, injunctive  
15 relief shall be available to require compliance with  
16 the procedures of this subsection. In the event of  
17 any successful action under this subsection, costs to-  
18 gether with reasonable attorney fees, as determined  
19 by the court, may be recovered.”.

20 **SEC. 4. FBI ACCESS TO TAX RETURNS FOR COUNTERINTEL-**  
21 **LIGENCE PURPOSES.**

22 Section 6103(i) of the Internal Revenue Code of 1986  
23 is amended by adding at the end the following new para-  
24 graph:

1           “(9) DISCLOSURE FOR COUNTERINTELLIGENCE  
2       PURPOSES.—

3           “(A) IN GENERAL.—Except as provided in  
4       paragraph (6), any return or return informa-  
5       tion with respect to any specified taxable period  
6       or periods shall, pursuant to and upon the  
7       grant of an ex parte order by a district court  
8       judge issued pursuant to section 103 of the  
9       Foreign Intelligence Surveillance Act of 1978  
10      (50 U.S.C. 1803), be open (but only to the ex-  
11      tent necessary as provided in such order) to in-  
12      spection by, or disclosure to, officers and em-  
13      ployees of the Department of Justice who are  
14      personally and directly engaged in an author-  
15      ized counterintelligence investigation solely for  
16      the use of such officers and employees in such  
17      investigation.

18          “(B) APPLICATION FOR ORDER.—The At-  
19      torney General or the Deputy Attorney General  
20      may authorize an application to a judge re-  
21      ferred to in subparagraph (A). Upon such ap-  
22      plication, such judge may grant such an order  
23      if the judge determines on the basis of the facts  
24      submitted by the applicant that—

1 “(i) there are specific and articulable  
2 facts giving reason to believe that the per-  
3 son whose returns or return information is  
4 sought is a foreign power or an agent of a  
5 foreign power, as defined in section 101 of  
6 the Foreign Intelligence Surveillance Act of  
7 1978 (50 U.S.C. 1801);

8 “(ii) there is reasonable cause to be-  
9 lieve that the return or return information  
10 is or may be relevant to an authorized  
11 counterintelligence investigation;

12 “(iii) the return or return information  
13 is sought exclusively for use in an author-  
14 ized counterintelligence investigation; and

15 “(iv) the information sought to be dis-  
16 closed cannot reasonably be obtained,  
17 under the circumstances, from another  
18 source.”.

19 **SEC. 5. REWARDS FOR INFORMATION CONCERNING ESPIO-**  
20 **NAGE.**

21 (a) REWARDS.—Section 3071 of title 18, United  
22 States Code, is amended—

23 (1) by inserting “(a)” before “With respect to”;  
24 and



1           (2) by adding at the end the following new sub-  
2       section:

3       “(b) With respect to acts of espionage involving or  
4       directed at classified information of the United States, the  
5       Attorney General may reward any individual who fur-  
6       nishes information—

7           “(1) leading to the arrest or conviction, in any  
8       country, of any individual or individuals for commis-  
9       sion of an act of espionage with respect to such in-  
10      formation against the United States;

11          “(2) leading to the arrest or conviction, in any  
12      country, of any individual or individuals for conspir-  
13      ing or attempting to commit an act of espionage  
14      with respect to such information against the United  
15      States; or

16          “(3) leading to the prevention or frustration of  
17      an act of espionage with respect to such information  
18      against the United States.”.

19      (b) DEFINITIONS.—Section 3077 of such title is  
20      amended by inserting at the end thereof the following new  
21      paragraphs:

22          “(8) ‘act of espionage’ means an activity that is  
23      a violation of—

24              “(A) section 794 or 798 of title 18, United  
25      States Code; or

1           “(B) section 4 of the Subversive Activities  
2           Control Act of 1950 (50 U.S.C. 783).

3           “(9) ‘classified information of the United  
4           States’ means information originated, owned, or pos-  
5           sessed by the United States Government concerning  
6           the national defense or foreign relations of the Unit-  
7           ed States that has been determined pursuant to law  
8           or Executive order to require protection against un-  
9           authorized disclosure in the interests of national  
10          security.”.

11          (c) CLERICAL AMENDMENTS.—The items relating to  
12       chapter 204 in the table of chapters at the beginning of  
13       such title, and in the table of chapters at the beginning  
14       of part II of such title, are each amended by adding at  
15       the end the following: “**AND ESPIONAGE**”.

16       **SEC. 6. JURISDICTION OF UNITED STATES COURTS TO TRY**  
17                               **CASES INVOLVING ESPIONAGE OUTSIDE THE**  
18                               **UNITED STATES.**

19          (a) IN GENERAL.—Chapter 211 of title 18, United  
20       States Code, is amended by inserting after section 3238  
21       the following new section 3239:

22       **“§ 3239. Jurisdiction of espionage outside the United**  
23                               **States and related offenses**

24          “The trial for any offense involving a violation of—

1 “(1) section 793, 794, 798, or 1030(a)(1) of  
2 this title;

3 “(2) section 601 of the National Security Act of  
4 1947 (50 U.S.C. 421); or

5 “(3) subsection (b) or (c) of section 4 of the  
6 Subversive Activities Control Act of 1950 (50 U.S.C.  
7 783 (b) or (c)),  
8 begun or committed upon the high seas or elsewhere out  
9 of the jurisdiction of any particular State or district, may  
10 be prosecuted in the District of Columbia, or in the East-  
11 ern District of Virginia, or in any other district authorized  
12 by law.”.

13 (b) CLERICAL AMENDMENT.—The table of sections  
14 at the beginning of chapter 211 of such title is amended  
15 by inserting after the item relating to section 3238 the  
16 following:

“3239. Jurisdiction of espionage outside the United States and related of-  
fenses.”.

17 **SEC. 7. LESSER CRIMINAL OFFENSE FOR THE UNAUTHOR-**  
18 **IZED REMOVAL OF CLASSIFIED DOCUMENTS.**

19 (a) IN GENERAL.—Chapter 93 of title 18, United  
20 States Code, is amended by adding at the end the follow-  
21 ing new section:

1 **“§ 1924. Unauthorized removal and retention of clas-**  
 2 **sified documents or material**

3 “(a) IN GENERAL.—Whoever, being an officer, em-  
 4 ployee, contractor, or consultant of the United States, and,  
 5 by virtue of his office, employment, position, or contract,  
 6 becomes possessed of documents or materials containing  
 7 classified information of the United States, knowingly re-  
 8 moves such documents or materials without authority and  
 9 with the intent to retain such documents or materials at  
 10 an unauthorized location shall be fined not more than  
 11 \$1,000, or imprisoned for not more than 1 year, or both.

12 “(b) DEFINITION.—In this section, the term ‘classi-  
 13 fied information of the United States’ means information  
 14 originated, owned, or possessed by the United States Gov-  
 15 ernment concerning the national defense or foreign rela-  
 16 tions of the United States that has been determined pur-  
 17 suant to law or Executive order to require protection  
 18 against unauthorized disclosure in the interests of national  
 19 security.”.

20 (b) CLERICAL AMENDMENT.—The table of sections  
 21 at the beginning of such chapter is amended by adding  
 22 at the end the following:

“1924. Unauthorized removal and retention of classified documents or mate-  
 rial.”.

1 **SEC. 8. CRIMINAL FORFEITURE FOR VIOLATION OF CER-**  
2 **TAIN ESPIONAGE LAWS.**

3 (a) TITLE 18.—Section 798 of title 18, United States  
4 Code, is amended by adding at the end the following new  
5 subsection:

6 “(d)(1) Any person convicted of a violation of this  
7 section shall forfeit to the United States irrespective of  
8 any provision of State law—

9 “(A) any property constituting, or derived from,  
10 any proceeds the person obtained, directly or indi-  
11 rectly, as the result of such violation; and

12 “(B) any of the person’s property used, or in-  
13 tended to be used, in any manner or part, to com-  
14 mit, or to facilitate the commission of, such viola-  
15 tion.

16 “(2) The court, in imposing sentence on a defendant  
17 for a conviction of a violation of this section, shall order  
18 that the defendant forfeit to the United States all property  
19 described in paragraph (1).

20 “(3) Except as provided in paragraph (4), the provi-  
21 sions of subsections (b), (c), and (e) through (p) of section  
22 413 of the Comprehensive Drug Abuse Prevention and  
23 Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p))  
24 shall apply to—

25 “(A) property subject to forfeiture under this  
26 subsection;

1           “(B) any seizure or disposition of such prop-  
2       erty; and

3           “(C) any administrative or judicial proceeding  
4       in relation to such property, if not inconsistent with  
5       this subsection.

6       “(4) Notwithstanding section 524(c) of title 28, there  
7       shall be deposited in the Crime Victims Fund established  
8       under section 1402 of the Victims of Crime Act of 1984  
9       (42 U.S.C. 10601) all amounts from the forfeiture of  
10      property under this subsection remaining after the pay-  
11      ment of expenses for forfeiture and sale authorized by  
12      law.”.

13       (b) AMENDMENTS FOR CONSISTENCY IN APPLICA-  
14      TION OF FORFEITURE UNDER TITLE 18.—(1) Section  
15      793(h)(3) of such title is amended in the matter above  
16      subparagraph (A) by striking out “(o)” each place it ap-  
17      pears and inserting in lieu thereof “(p)”.

18       (2) Section 794(d)(3) of such title is amended in the  
19      matter above subparagraph (A) by striking out “(o)” each  
20      place it appears and inserting in lieu thereof “(p)”.

21       (c) SUBVERSIVE ACTIVITIES CONTROL ACT.—Sec-  
22      tion 4 of the Subversive Activities Control Act of 1950  
23      (50 U.S.C. 783) is amended by adding at the end the fol-  
24      lowing new subsection:

1       “(g)(1) Any person convicted of a violation of this  
2 section shall forfeit to the United States irrespective of  
3 any provision of State law—

4               “(A) any property constituting, or derived from,  
5 any proceeds the person obtained, directly or indi-  
6 rectly, as the result of such violation; and

7               “(B) any of the person’s property used, or in-  
8 tended to be used, in any manner or part, to com-  
9 mit, or to facilitate the commission of, such viola-  
10 tion.

11       “(2) The court, in imposing sentence on a defendant  
12 for a conviction of a violation of this section, shall order  
13 that the defendant forfeit to the United States all property  
14 described in paragraph (1).

15       “(3) Except as provided in paragraph (4), the provi-  
16 sions of subsections (b), (c), and (e) through (p) of section  
17 413 of the Comprehensive Drug Abuse Prevention and  
18 Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p))  
19 shall apply to—

20               “(A) property subject to forfeiture under this  
21 subsection;

22               “(B) any seizure or disposition of such prop-  
23 erty; and

1           “(C) any administrative or judicial proceeding  
 2           in relation to such property, if not inconsistent with  
 3           this subsection.

4           “(4) Notwithstanding section 524(c) of title 28,  
 5           United States Code, there shall be deposited in the Crime  
 6           Victims Fund established under section 1402 of the Vic-  
 7           tims of Crime Act of 1984 (42 U.S.C. 10601) all amounts  
 8           from the forfeiture of property under this subsection re-  
 9           maining after the payment of expenses for forfeiture and  
 10          sale authorized by law.”.

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